

From: McLanahan
To: Microsoft ATR
Date: 1/24/02 11:20am
Subject: Microsoft settlement

Attached is a letter for Judge Kollar-Kotally with respect to the Microsoft settlement.

Bruce McLanahan
81 Woodway Ridge Lane
New Canaan CT 06840
Tel 203 966 4895
Fax 203 966 9690
Cellphone 203 247 5429 (often turned off))
e-mail: bmcl1@ix.netcom.com

CC: Chris Senecal

Bruce McLanahan
81 Woodway Ridge Lane
New Canaan, CT 06840
(203) 966-4895

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Dear Judge Kollar-Kotally,

Proposed Settlement would Expand Microsoft Monopoly. I urge you to carefully consider Connecticut's position opposing the settlement of the Microsoft antitrust case. In a lengthy and widely publicized trial, a court found that Microsoft illegally monopolized the market for computer operating systems. The Department of Justice proposed settlement, in the view of many, would permit Microsoft to expand its monopoly powers.

The Threat to Users of Windows. Objections to an antitrust settlement may seem arcane - but the practical implications are far reaching. An economist recently testified in the private antitrust hearing that Microsoft used its monopoly power to overcharge the consumer by \$5 billion for Windows. Other economists have suggested higher figures.

Proposed Settlement is too Weak. What does this have to do with the proposed Microsoft settlement? The settlement attempts to protect other producers of software from Microsoft's use of its monopoly position in the Windows operating systems. However, it unfortunately falls far short. As Attorney General Blumenthal stated, "the settlement simply has too many gaps and ambiguities that undermine the remedies necessary against substantial violations of law found by two federal courts." In the details, there are so many limitations that it will be business as usual for Microsoft. Additionally, the enforcement mechanism is not supervised by the court, as it should be, but by a committee of limited powers reporting to the Department of Justice. The enforcement is really so weak as to be almost non-existent, especially in view of Microsoft's past history of pushing the law to, and perhaps beyond, its limits. Lastly, if you or I were to have broken the law, we would expect some punishment. There really is nothing in the settlement which addresses the issue of redress for the proven past illegal monopolization.

Greatest Loss is Loss of Choice to the Consumer. Freedom of choice is important. In its new XP version of Windows, Microsoft has or will including programs to provide directories and facilitate internet credit verification. Potentially, if everyone used these two programs, Microsoft could become the "gatekeeper" for commercial transactions on the internet, taking a little piece out of every transaction. A fabulous business to be sure but if this happens, it will mean that Microsoft has been able to use one monopoly to create another. With the weak provisions of the proposed Microsoft antitrust settlement, consumers are almost certain to lose that choice. Four years from now, there will be another Microsoft antitrust case. We will have gotten nowhere. We deserve an agreement which is fair to all parties.

Respectfully submitted

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